

RECEIVED
CENTRAL FAX CENTER

MAR 10 2005



FACSIMILE COVER SHEET

Date: March 10, 2005

To Examiner : Mina Haghigian
Group 1616From: Carolyn S. Elmore
Registration No. 37,567

Fax Number: (703) 872-9306

Subject: Paper: Reply to Final Office Action dated January 11, 2005

Docket No.: 2685.2030-000

Applicants: Jennifer L. Schmitke, *et al.*

Serial No.: 09/888,126

Filing Date: June 22, 2001

Number of pages including this cover sheet 12Please confirm receipt of facsimile: Yes No _____

Comments:

Privileged and Confidential - All information transmitted hereby is intended only for the use of the addressee(s) named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any distribution or copying of this communication is strictly prohibited. Anyone who received this communication in error is asked to notify us immediately by telephone and to destroy the original message or return it to us at the above address via first class mail.

Elmore, Craig & Vanstone, P.C., 209 Main Street, Chelmsford, MA 01863, USA. voice: (978) 251-3509 / fax: (978) 251-3973 . www.elmorecraig.com

PAGE 1/13 * RCVD AT 3/10/2005 3:33:39 PM (Eastern Standard Time) * SVR:USPTO-EFXRF-111 * DMS:8729306 * CSID: * DURATION (mm:ss):04:24

04/13/2005 00:00:00 502807 000126

01 FC:1814 130.00 DA

09/888,126

Please charge Deposit Account No. 502807 for the following fees:

<input type="checkbox"/>	Petition for [] month Extension of Time	\$	
<input type="checkbox"/>	Amendment Fee	\$	
<input checked="" type="checkbox"/>	Other Fees:	\$	
	Terminal Disclaimer	\$	130
		\$	

TOTAL: \$ 130

A check is enclosed in payment of the following fees:

<input type="checkbox"/>	Petition for two month Extension of Time	\$	
<input type="checkbox"/>	Amendment Fee	\$	
<input type="checkbox"/>	Other Fees:	\$	
		\$	
		\$	

TOTAL: \$

A general authorization is hereby granted to charge Deposit Account No. 502807 for any fees required under 37 C.F.R. 1.16 and 1.17 in order to maintain pendency of this application.

Respectfully submitted,

ELMORE, CRAIG & VANSTONE, P.C.

By 
 Carolyn S. Elmore
 Registration No.: 37,567
 Telephone (978) 251-3509
 Facsimile (978) 251-3973

Chelmsford, Massachusetts 01863

Dated: *March 10, 2005*

PTO/SB/25 (09-04)

Approved for use through 07/31/2008. OMB 0851-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO OBLIGATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATIONDocket Number (Optional)
2685.2030-000

In re Application of: Jennifer L. Schmitke, Donghao Chen, Richard P. Batycky, David A. Edwards and Jeffrey S. Hrkach

Application No.: 09/888,126

Filed: June 22, 2001

For: PARTICLES FOR INHALATION HAVING RAPID RELEASE PROPERTIES

The owner, Advanced Inhalation Research, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/179,463, filed on June 24, 2002, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

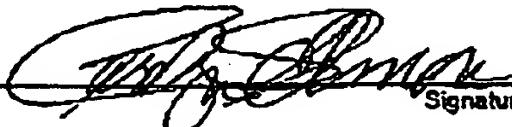
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that any such patent granted on the pending reference application expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 37,567



Signature



Date

Carolyn S. Elmore
Typed or printed name

(978)251-3509
Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.**

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.